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Granted.—Complainant was the equitable owner of 130 acres in a tract of 400 acres, title to which was in her son H. H. conveyed to his wife, and the wife and complainant made a parol partition, complainant taking possession of her lands and continuing to live thereon. H.'s conveyance to his wife was held void as to creditors, and the land was sold. Defendant purchased the land at the sale, agreeing to hold it in trust for complainant and H.'s wife, the consideration being furnished in part by H. and in part from the proceeds of a sale of part of the land to B. H.'s wife conveyed her interest to the land to defendant in exchange for other lands. Held, that in a suit by complainant to enforce the trust, the court properly decreed that the specific part of the land set apart to complainant by the parol partition, excepting so much thereof as was included in the conveyance to B., should be conveyed to her by defendant, instead of an undivided one-half interest in the entire tract, as complainant's interest in the subject of the trust was not undivided, but a specific part of the land, and defendant had knowledge thereof.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 376.]

Appeal from Circuit Court, Scott County.

Suit by Eliza Hensley and others against I. M. Fleenor. From a decree in favor of complainants, defendant appeals. Affirmed.

S. H. Bond, of Gate City, for appellant.

W. S. Cor and *E. T. Carter*, both of Gate City, for appellees.

FRENCH *v.* VIRGINIAN RY. CO.

Sept. 20, 1917.

[93 S. E. 585.]

1. **Evidence (§ 352 (1*))—Documentary Evidence—Entries on Train Sheets.**—Records of entries, made in the established course of business, on train sheets, by train dispatchers, from reports telegraphed or telephoned them by station agents as to the time of arrival and departure of trains, are admissible in evidence to indicate the location of a train at a certain time.

[Ed. Note.—For other cases, see 4 Va.-W. Va. Enc. Dig. 773.]

2. **Evidence (§ 352 (5*))—Documentary Evidence—Entries in Course of Business.**—In an action against a railroad for the destruction of growing timber by fire, defendant road's dispatcher's register of trains on the date of the fire, not verified by the train dispatcher, but by the claim adjuster of the road, who testified he had access to all books and records, that the register produced was kept by the dispatcher of the division office from information received by him

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

from other employees by telegraph and telephone from stations along the line, and that it was in the handwriting of three men, who were the dispatchers on duty on the date, was admissible in evidence; the failure to prove the register by the train dispatcher who kept it affecting not its admissibility, but its credibility, the vital question being whether or not it constituted the original train sheet.

[Ed. Note.—For other cases, see 4 Va.-W. Va. Enc. Dig. 773.]

(Additional Syllabus by Editor.)

3. Evidence—Documentary Evidence—Authentication and Proof.

—Documentary evidence should not be admitted, unless the document comes from the proper custody and it is proved that it is a record kept in accordance with the established rule of business, made contemporaneously, before the controversy arose, by persons under the very highest duty and responsibility to keep a true record. If there be any doubt as to its genuineness, the evidence should be excluded.

[Ed. Note.—For other cases, see 4 Va.-W. Va. Enc. Dig. 775.]

Error to Circuit Court, Giles County.

Action by K. S. French against the Virginian Railway Company. From a judgment for defendant, plaintiff brings error. Affirmed.

W. B. Snidow, of Pearisburg, for plaintiff in error.

H. T. Hall, of Roanoke, and *G. A. Wingfield*, of Norfolk, for defendant in error.

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.